

# HOUSE BILL No. 1188

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-31.5-2; IC 35-42-2-1.

**Synopsis:** Battery on a utility worker. Makes battery a Level 6 felony instead of a Class B misdemeanor if the battery is committed against a utility worker engaged in the ordinary course of the utility worker's employment. Makes the offense a Level 5 felony if: (1) the battery involved the placement of any bodily fluid or waste on a utility worker; and (2) the person who committed the offense knew or recklessly failed to know that the bodily fluid or waste placed on the utility worker was infected with hepatitis, tuberculosis, or human immunodeficiency virus.

**Effective:** July 1, 2016.

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## Moseley

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January 7, 2016, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

## HOUSE BILL No. 1188

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 35-31.5-2-260.2, AS ADDED BY P.L.238-2015,  
2 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2016]: Sec. 260.2. "Public safety official", for purposes of  
4 IC 35-42-2-1, has the meaning set forth in ~~IC 35-42-2-1~~.  
5 **IC 35-42-2-1(a)(1).**
- 6 SECTION 2. IC 35-31.5-2-344.5 IS ADDED TO THE INDIANA  
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
8 [EFFECTIVE JULY 1, 2016]: **Sec. 344.5. "Utility worker", for**  
9 **purposes of IC 35-42-2-1, has the meaning set forth in**  
10 **IC 35-42-2-1(a)(2).**
- 11 SECTION 3. IC 35-42-2-1, AS AMENDED BY P.L.147-2014,  
12 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 JULY 1, 2016]: Sec. 1. (a) ~~As used in~~ **The following definitions apply**  
14 **throughout** this section:
- 15 (1) "Public safety official" means:  
16 (†) **(A)** a law enforcement officer, including an alcoholic  
17 beverage enforcement officer;



- 1           ~~(2)~~ **(B)** an employee of a penal facility or a juvenile detention
- 2           facility (as defined in IC 31-9-2-71);
- 3           ~~(3)~~ **(C)** an employee of the department of correction;
- 4           ~~(4)~~ **(D)** a probation officer;
- 5           ~~(5)~~ **(E)** a parole officer;
- 6           ~~(6)~~ **(F)** a community corrections worker;
- 7           ~~(7)~~ **(G)** a home detention officer;
- 8           ~~(8)~~ **(H)** a department of child services employee;
- 9           ~~(9)~~ **(I)** a firefighter;
- 10          ~~(10)~~ **(J)** an emergency medical services provider; or
- 11          ~~(11)~~ **(K)** a judicial officer.

12           **(2) "Utility worker" means an individual employed by:**

- 13           **(A) a public utility (as defined in IC 8-1-2-1(a));**
- 14           **(B) a municipally owned utility (as defined in**
- 15           **IC 8-1-2-1(h));**
- 16           **(C) a cable or satellite television company;**
- 17           **(D) a telecommunications carrier;**
- 18           **(E) an electric cooperative;**
- 19           **(F) a telephone cooperative; or**
- 20           **(G) a nonprofit utility.**

21           (b) Except as provided in subsections (c) through (j), a person who

22           knowingly or intentionally:

- 23           (1) touches another person in a rude, insolent, or angry manner;
- 24           or
- 25           (2) in a rude, insolent, or angry manner places any bodily fluid or
- 26           waste on another person;

27           commits battery, a Class B misdemeanor.

28           (c) The offense described in subsection (b)(1) or (b)(2) is a Class A

29           misdemeanor if it results in bodily injury to any other person.

30           (d) The offense described in subsection (b)(1) or (b)(2) is a Level 6

31           felony if one (1) or more of the following apply:

- 32           (1) The offense results in moderate bodily injury to any other
- 33           person.
- 34           (2) The offense is committed against a public safety official while
- 35           the official is engaged in the official's official duty.
- 36           (3) The offense is committed against a person less than fourteen
- 37           (14) years of age and is committed by a person at least eighteen
- 38           (18) years of age.
- 39           (4) The offense is committed against a person of any age who has
- 40           a mental or physical disability and is committed by a person
- 41           having the care of the person with the mental or physical
- 42           disability, whether the care is assumed voluntarily or because of



a legal obligation.

(5) The offense is committed against an endangered adult (as defined in IC 12-10-3-2).

(6) The offense is committed against a family or household member (as defined in IC 35-31.5-2-128) if the person who committed the offense:

(A) is at least eighteen (18) years of age; and

(B) committed the offense in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense.

**(7) The offense is committed against a utility worker while the utility worker is acting in the ordinary course of the worker's employment.**

(e) The offense described in subsection (b)(2) is a Level 6 felony if the person knew or recklessly failed to know that the bodily fluid or waste placed on another person was infected with hepatitis, tuberculosis, or human immunodeficiency virus.

(f) The offense described in subsection (b)(1) or (b)(2) is a Level 5 felony if one (1) or more of the following apply:

(1) The offense results in serious bodily injury to another person.

(2) The offense is committed with a deadly weapon.

(3) The offense results in bodily injury to a pregnant woman if the person knew of the pregnancy.

(4) The person has a previous conviction for battery against the same victim.

(5) The offense results in bodily injury to one (1) or more of the following:

(A) A public safety official while the official is engaged in the official's official duties.

(B) A person less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(C) A person who has a mental or physical disability if the offense is committed by an individual having care of the person with the disability, regardless of whether the care is assumed voluntarily or because of a legal obligation.

(D) An endangered adult (as defined in IC 12-10-3-2).

(g) The offense described in subsection (b)(2) is a Level 5 felony if:

(1) the person knew or recklessly failed to know that the bodily fluid or waste placed on another person was infected with hepatitis, tuberculosis, or human immunodeficiency virus; and

(2) the person placed the bodily fluid or waste on a public safety official or a utility worker.



1 (h) The offense described in subsection (b)(1) or (b)(2) is a Level 4  
2 felony if it results in serious bodily injury to an endangered adult (as  
3 defined in IC 12-10-3-2).

4 (i) The offense described in subsection (b)(1) or (b)(2) is a Level 3  
5 felony if it results in serious bodily injury to a person less than fourteen  
6 (14) years of age if the offense is committed by a person at least  
7 eighteen (18) years of age.

8 (j) The offense described in subsection (b)(1) or (b)(2) is a Level 2  
9 felony if it results in the death of one (1) or more of the following:

10 (1) A person less than fourteen (14) years of age if the offense is  
11 committed by a person at least eighteen (18) years of age.

12 (2) An endangered adult (as defined in IC 12-10-3-2).

